

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DARRYL ORRIN BAKER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-147E
)	
UNITED STATES OF AMERICA,)	JUDGE McLAUGHLIN
GOVERNMENT OFFICIALS AT)	MAGISTRATE JUDGE BAXTER
FCI-McKEAN, WARDEN, OFFICER)	
B. WESEMEN, MEDICAL DEPARTMENT)	Electronically Filed
)	
Defendants.)	

**DEFENDANTS' MOTION TO WITHDRAW MOTION FOR EXTENSION OF TIME
FILED NOVEMBER 23, 2005 AND TO VACATE ORDER GRANTING THAT MOTION**

Defendants the United States of America, Government Officials at FCI-McKean, Warden, Officer B. Wesemen and Medical Department, by their undersigned counsel, hereby file this Motion to Withdraw Motion for Extension of Time Filed November 23, 2005 and to Vacate Order Granting that Motion, and in support thereof state as follows:

1. On May 16, 2005, plaintiff Darryl Orrin Baker filed two (2) civil actions, including the above-captioned action and a related action at C.A. No. 05-146E.
2. The above-captioned action is assigned to Paul E. Skirtich, Assistant United States Attorney for the Western District of Pennsylvania. The related action at C.A. No. 05-146E was recently reassigned to Megan E. Farrell of the United States Attorney's Office in this judicial district.
3. On behalf of defendants in the above-captioned action, Mr. Skirtich filed a Motion for Extension of Time to Answer or Otherwise Move with Respect to Plaintiff's Complaint. The motion was filed on November 3, 2005, and granted the next day by text order.

4. On November 23, 2005, Ms. Farrell filed Defendants' Motion to Extend Time for Filing a Responsive Pleading and/or Dispositive Motion. Although the motion was captioned at C.A. No. 146E, it was erroneously filed in the above-captioned action at docket #13. This motion was granted by text order in this case on November 29, 2005.

5. To remedy the errors described above, defendants hereby move to withdraw the motion for extension of time filed on November 23, 2005 (docket #13), and to vacate the order granting that motion on November 29, 2005. Ms. Farrell will file separately a Withdrawal of Counsel in this action, and she has already re-filed the motion for extension of time that should have been filed at C.A. No. 146E.

6. As of this date, plaintiff has failed to serve the United States Attorney's Office with a Complaint and Summons at either the above-captioned action or the related action at C.A. No. 146E.

7. Plaintiff is a *pro se* inmate and, as a result, has not been contacted regarding his consent or opposition to this motion.

WHEREFORE, defendants the United States of America, Government Officials at FCI-McKean, Warden, Officer B. Wesemen and Medical Department respectfully request that the Court grant this motion and withdraw the motion for extension of time filed on November 23, 2005 (docket #13), and vacate the Order granting that motion.

A proposed order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

s/Megan E. Farrell

MEGAN E. FARRELL
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Western District of PA
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PA ID No. 76972

Dated: December 6, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2005, a true and correct copy of the foregoing Defendants' Motion to Withdraw Motion for Extension of Time Filed November 23, 2005 and to Vacate Order Granting that Motion was served by first-class U.S. mail, to the following:

Darryl Orrin Baker
19613-039
USP Lewisburg
P.O. Box 1000
Lewisburg, PA 17837

s/Megan E. Farrell
MEGAN E. FARRELL
Assistant U.S. Attorney